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प्रसाधारण

EXTRAORDINARY

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PART I—Section I

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF COMMERCE

PUBLIC NOTICE

IMPORT TRADE CONTROL

New Delhi, the 21st December 1967

SUBJECT:—*Surcharge on freight due to closure of Suez Canal and diversion of ships via Cape of Good Hope—Payment arrangements therefor against licences under U.S. Aid and other Loans.*

No. 199-ITC(PN)/67.—Attention of importers is invited to Ministry of Commerce Public Notice No. 76-ITC(PN)/67 dated the 8th August, 1967 setting out the procedure of payment of surcharge on freight against licences issued under AID and other loans.

2. In regard to AID Loans, the U.S. Aid Authorities have stipulated certain conditions, the fulfilment of which is a pre-requisite now to make the surcharge on freight on shipments arranged under AID Licences eligible for AID financing. The drill contained in para 2(1) of the Public Notice cited above is, therefore, superseded by the following:—

- (1) This applies to licences in respect of which letters of authorisations for opening letters of credit have been issued under AID Non-project Loans 160 and 168. In respect of goods already shipped after 23rd June, 1967 against authorisations issued under AID Non-project loans 138 and 155 (since closed), for which the payments for surcharge, if any, are still outstanding, a reference should be made to the Senior Accounts Officer, Department of Economic Affairs, Ministry of Finance, Jeevan Deep Building, Parliament Street, New Delhi with the full facts of the case.

- (2) *In respect of sales contracts already concluded.*—Since the contract is between the importers and their suppliers, it is for the importers to see whether they are liable to pay the surcharge under the terms of their contract. *(The AID have, however, advised that, in their view, for all true C and F contracts, the risk of all freight fluctuation, including surcharge, is on the seller in all such contracts).* In case the importers accept the liability to pay the surcharge, the payment of surcharge to the supplier/shipper should be arranged in the under-mentioned manner:—

A. *Surcharge relating to U.S. flag Liner Vessels.*—(I) The surcharge, as evidenced due to the closure of Suez Canal and diversion *via* Cape of Good Hope, will be eligible for AID financing, for the duration of the Suez Canal closure, only if—

- (i) the contract is on F.O.B. or F.A.S. basis (The F.O.B. or F.A.S. prices should be clearly indicated in the letters of credit whether or not C & F prices are separately stated) and provisions of AID Regulation I are complied with, especially Section 201.13(b)(IV) (Reproduced as Annexure);
- (ii) the Cargoes are delivered, as evidenced by relative *dock receipts*, to US liner carriers on and after June, 23, 1967, and
- (iii) the surcharge is (a) to the extent of 25% of original freight amount in respect of shipments upto 22nd September 1967 and (b) to the extent of 15% in respect of shipments from 23rd September, 1967.

In cases where the above mentioned conditions are satisfied and surcharge qualifies for AID financing, the importers should initiate action to:—

- (a) Amend the relative letters of credit through the Indian Banker—
 - (i) to prevent the payment of surcharge from AID funds unless the dock receipt is dated June 23, 1967 or later;
 - (ii) to clearly state the F.O.B. or F.A.S. price, whether or not C & F prices are separately stated.
- (b) notify the suppliers directly—
 - (i) of the above conditions under which the surcharge will be paid by the U.S. Bank from AID funds;
 - (ii) that copies of the *dock receipt* issued by the ocean carrier will be an *additional* document required for reimbursement in respect of payment of these freight surcharges.

Where the amount of the letter of credit or that of Letter of Credit authorisation issued by the Ministry of Finance is not sufficient to accommodate the surcharge and suitable increase thereof is required to cover all shipments, a request to this effect should be made to the Ministry of Finance, Department of Economic Affairs, Economic Aid Accounts Branch with a certification that the conditions for AID financing as set out in this Public Notice have been satisfied. If the desired enhancement is not covered by the value of Bank Guarantee already furnished, the request for enhancement should be supported by an additional bank guarantee or suitable amendment to the original Bank Guarantee to cover the increase. On receipt of the request, the Ministry of Finance will issue additional authorisation if the request is in order. Thereafter action may be taken, through Indian Bank concerned, for increasing the value of the letter of credit. But as long as the amounts of letters of credit already set up are sufficient to accommodate the surcharge, the shipments and payments can proceed if the U.S. Bank is authorised to make such payments.

(II) In respect of the surcharge relating to U.S. Flag Vessels, which does not qualify for AID financing under sub-clause (I) above i.e.,

- (i) where cargoes are delivered to liner vessels before June 23, 1967 as evidenced by dock receipts or
- (ii) where contracts are on C&F or c.i.f. basis, the U.S. Banks will, after payment, claim reimbursement therefore from the Indian Bank concerned. The latter Banks will then remit the surcharge at rates not exceeding those mentioned at A.I.(iii) above in such cases to the U.S. Bank in the usual manner, notwithstanding anything to the contrary mentioned in this Public Notice. F.O.B. and normal freight charges (excluding surcharge) will, however, be financeable from AID funds in such cases

B. Surcharge on U.S. bulk carriers and tankers.—In respect of all bulk carrier and tanker charter shipment, the approval of AID is obtained in advance, and the AID will therefore finance freight only to the extent the rates are approved by them. Therefore no freight surcharge will be financed by AID if it is over and above the freight rates approved by them. The AID approval of charter in each case will indicate the rates (including surcharge, if any) approved by AID. In this connection, AID have clarified that approval of charter by them after June 23rd, 1967 does not constitute AID willingness to increase AID funding to cover freight increase, for true C and F sales contracts concluded before June 23, 1967. However, in cases where surcharge is not eligible for AID financing, and the importers accept the liability of payment, they are permitted to make the payments out of free foreign exchange. The procedure of payment will be same as under A(I) or (II) above, as the case may be.

C. Surcharge on non-U.S. Vessels.—In regard to surcharge on non-U.S. Vessels, the increased freight charges can be remitted like normal freight charges at rates not exceeding those mentioned at A I(III) above in the manner provided in clause (IV) of Appendix to Public Notice No. 115-ITC(PN)/66 dated 11th August 1966 and amended from time to time.

(3) In respect of future C&F—CIF sales contracts.—The contracts should specify C & F plus payment of freight surcharge at 15 per cent of original freight rate arising from closure of Suez Canal with the express stipulation that in the event of reopening of the Suez Canal, there will be a corresponding reduction in the freight rate. Subject to this condition, the surcharge will be eligible for AID financing. The contracts should be placed by the importer accordingly, so that surcharge may be financed out of AID funds.

(4) The existing para 2(4) of Public Notice No. 76-ITC(PN)/67 dated 8th August, 1967 may be amended as under:—

Licences under loans under "Direct Payment Procedures".—Same procedure as for U. K. Loans may be followed *mutatis mutandis* in case of Public Sector imports under W. German credits where payments are arranged through C.A.O., High Commission of India, London.

In the case of Austrian, Belgian, Danish and Dutch Credits and other credits where payments to foreign suppliers are arranged on the basis of Letters of Authorisations issued by the Ministry of Finance (Deptt. of Economic Affairs) without opening letters of credit, the importers may arrange for payment of additional freight charges, if due, on the basis of *Proforma invoices where available or suitable letters from the suppliers specifying the additional amount and bearing reference to the original contract number and date*. Such payments can be made without reference to the Ministry of Finance, if the payment of additional amounts do not cause an excess over the amounts stipulated in the respective authorisations. If, however, the additional amounts cannot be accommodated within the limits indicated in the original authorisations, specific requests should be made to the Under Secretary/Deputy Secretary concerned in the Deptt. of Economic Affairs of the Ministry of Finance for the issue of amendments to the authorisations already issued. Such requests should be supported by the above mentioned documents and additional Bank guarantees or amendments to the earlier Bank guarantee, if the Bank guarantees already produced are not adequate to cover the additional amounts.

ANNEXURE

Extract of Section 201.13 of AID Regulation I

201.13. Eligibility of delivery Services

Delivery services will be financed by AID in the manner provided in this §201.13

(a) General.—Delivery services which relate to AID financed Commodities may be financed under the implementing document which authorises the purchase of the commodities or under a separate implementing document

(b) Conditions and limitations.—(1) Freight. Unless otherwise authorised AID will not finance freight

(i) For shipment beyond the point of entry to the cooperating country; or

(ii) on any non-US flag transportation medium or any U.S. flag vessel transferred from foreign-flag to provisional U.S. flag registry under 46 U.S.C. section 12 for carriage of commodities to the cooperating country, or to or from a free port or bonded warehouse; or

- (iii) on any vessel designated by A.I.D. as ineligible to carry AID financed cargo; or
- (iv) on any liner vessel for which the rate applicable to the commodity shipped and applying to both AID financed and non-AID financed cargo has not been filed with the Federal Maritime Commission (whether or not such filing is required by the Federal Maritime Commission); or
- (v) under any ocean or air charter covering full or part cargo (whether for a single voyage, consecutive voyages or a time period) which has not received prior approval by AID/W (Resources Transportation Division) or
- (vi) Which is attributable to brokerage commissions which exceed the limitations specified in \$201.65(1) or to address commissions, dead freight or demurrage.

P. D. KASBEKAR,

Chief Controller of Imports & Exports

ERRATUM

The Issue No. of the Gazette of India Extraordinary, Part I—Section 1, dated the 25th November, 1967, containing the Public Notice No. 172-ITC(PN)/67, dated 25th November, 1967 of the Ministry of Commerce (Import Trade Control) should be "182" (Issue No.) instead of "183".

MINISTRY OF STEEL, MINES AND METALS

ERRATUM

The Issue No. and page Nos. of the Gazette of India Extraordinary, Part I—Section I, dated the 27th November, 1967, containing the Resolution No. CS-12(18)/67, dated the 27th November, 1967 (both English and Hindi) of the Ministry of Steel, Mines and Metals (Department of Mines and Metals) should be "183" (Issue No.) and "721/1—721/13" (page Nos.) instead of "181" and "703—15" respectively.

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION

ERRATUM

The Issue No. and page Nos. of the Gazette of India Extraordinary, Part I—Section 1, dated the 21st November, 1967, containing the notification No. WB-17(7)/67, dated 18th November, 1967 of the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), should be "181" (Issue No.) and "703—718-720" (page Nos.) instead of "182" and "705—720" respectively.